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INVESTIGATIVE SUMMARY

CASE NUMBER: IV 2349523

SUBJECT(S): Damian Marquez, Deputy, #[redacted]

STATION/UNIT/BUREAU: Industry Station/East Patrol Division

DATE/TIME/DAY: December 18, 2013/Wednesday/2000 to 2200 Hours

LOCATION: Industry Station
150 North Hudson Avenue
Industry, California 91744

SYNOPSIS:

On January 13, 2014, Attorney Okourie Okorocha alleged his client, Complainant [redacted], was sexually assaulted under the color of authority by Subject Damian Marquez. Complainant [redacted] did not welcome the advances or sexual contact with Subject Marquez but felt he would retaliate if she refused. The allegation was referred to the Internal Criminal Investigations Bureau. Sergeant Marcelo Quintero, #[redacted], was assigned to conduct the investigation. See his completed investigation attached as **Exhibit A**.

On November 14, 2013, Subject Marquez and Deputy Sean Cariaga were assigned as Special Assignment Officers for the City La Puente. They initiated a traffic stop on a vehicle driven by Complainant [redacted] with Witness [redacted] as the passenger. Subject Marquez and Complainant [redacted] recognized each other from previous contacts when Subject Marquez had responded to calls for service while assigned to patrol at Industry Station in 2008 or 2009.

Subject Marquez requested a telephone number for Complainant [redacted] during the traffic stop. Complainant [redacted] initially planned to give him a voice mail number only, but the deputies learned Complainant [redacted] had a misdemeanor warrant for her arrest while she spoke with Subject Marquez. She felt she had to provide her telephone number.

Subject Marquez offered to help take care of the warrant for Complainant [redacted] She was not arrested or cited at the time of the traffic stop. Complainant [redacted] resided in the [redacted] which are a source of ongoing problems for the City of La Puente. Complainant [redacted] met Subject Marquez at Industry Sheriff's Station the next day (November 15, 2013), and he issued her a citation [redacted]. See **Exhibit A, page 66**. After completing the citation, Subject Marquez walked her out to her car and gave her a hug and kissed her on the cheek.

There were numerous telephone calls and text messages between Subject Marquez and Complainant [redacted] in the days following the traffic stop. These telephone calls and text messages became increasingly sexually suggestive and eventually explicit. The explicit content included text messages sent by Subject Marquez and texts and photographs sent by Complainant [redacted] Subject Marquez used his Department issued cellular telephone for all telephone contacts with Complainant [redacted]

Attorney Okorocha provided a copy of the text messages compiled by Complainant [redacted] See **Exhibit A, pages 30-61**. Sergeant Quintero obtained the cellular telephone records for both Subject Marquez and Complainant [redacted] via a search warrant. See Subject Marquez' call records attached as **Exhibit A, pages 91-118**, and Complainant [redacted] call records attached as **Exhibit A, pages 119-268**.

> **IAB Note:** Complainant [redacted] extrapolated the text messages using an application in her cellular telephone. She told Sergeant Quintero the application allowed her to comprise a list of selected texts but did not allow her to alter the content of the messages. There is a date and time for each message but the sender is not identified.

Attorney Okorocha provided Sergeant Quintero several recordings of cell phone calls between Complainant [redacted] and Subject Marquez. Sergeant Morris reviewed the 10 telephone calls. The calls were casual in nature. On November 25, 2013, at 1520 Hours, Complainant [redacted] and Subject Marquez were talking. Complainant [redacted] told him she was thinking about him. Later the same day (1809 Hours) Complainant [redacted] called Subject Marquez and asked him what he was doing. Complainant [redacted] asked Subject Marquez if she could come by the station and see him. On November 27, 2013, they talked about the Thanksgiving holiday and family. An eleventh call was on the CD which was a call to Industry Sheriff's Station where she confirmed the telephone number to IAB. The phone calls were placed on an audio CD, **Exhibit C.**

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Subject Marquez and Complainant [redacted] had two sexual encounters near Subject Marquez' desk inside the Special Assignment Office at Industry Station, which is located in the Operations Safe Streets offices across the street from the main station. The first encounter occurred on or about November 25, 2013. Subject Marquez kissed Complainant [redacted] pulled down her pants, and fondled her vagina. Complainant [redacted] fondled Subject Marquez' penis. This encounter was cut short when an unknown person entered the building.

> **IAB Note:** The probable date of this contact was determined based on the text messages. A text message on November 25, 2013 at 1917 hours included the comment, "You surprised me with that kiss," and began a series of texts regarding the issue. See **Exhibit A, page 46.** A text message on November 26, 2013 at 1737 asked, "Did u get in trouble for having me there last night?" See **Exhibit A, page 51**. A text message on November 26, 2013 at 2221 stated in part, "Yes it felt good when u touched my clit." See **Exhibit A, page 55**.

> **IAB Note:** Subject Marquez initially denied any sexual contact with Complainant [redacted] during his interview with Sergeant Quintero. He admitted the sexual contact occurred after he was told Complainant [redacted] had maintained a copy of the text messages. See page 41 of the transcription from his interview with Sergeant Quintero.

The relationship between Subject Marquez and Complainant [redacted] appeared to turn negative at the beginning of December, 2013. A text message sent on December 2, 2013 at 1330 stated, "So reality set in? I thought you were my friend, you just can't touch my pussy like that and expect me to forget about u. I have been wanting u badly ever since." Complainant [redacted] provided no further text messages between them until December 30, 2013, but the telephone records obtained by Sergeant Quintero show calls between those dates.

On December 6, 2013, she called Industry Station and spoke with the Watch Commander, Sergeant Beamon. She alleged she was given a citation for a misdemeanor warrant by Subject Marquez. After doing this favor for Complainant [redacted] Subject Marquez expected favors in return, which included carrying on a relationship and having sex. Complainant [redacted] refused to identify herself or Subject Marquez and requested the phone number to Internal Affairs Bureau (IAB).

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Sergeant Beamon provided Complainant [redacted] with the phone number to IAB. Refer to the recorded phone call between Sergeant Beamon and Complainant [redacted] **(audio CD labeled as Exhibit K in the ICIB Book, Exhibit A).**

Complainant [redacted] called the Sheriff's 1-800 complaint line and spoke to Sergeant Richard Pena #[redacted] from Sheriff's Headquarters Bureau. She told Sergeant Pena she was stopped by two deputies in the city of La Puente because she felt one of the deputies wanted her telephone number. Complainant [redacted] stated the one deputy constantly called her and would frequent her apartment complex. She expressed she felt pressured to give the deputy her number because of his authority. She also felt pressured by the deputy into coming to the Industry Sheriff's station where she was forced into a sexual encounter. She told Sergeant Pena during this sexual encounter, the deputy fondled her vagina. Complainant [redacted] never identified herself or Subject Marquez. She requested Sergeant Pena admonish the deputies assigned to Industry Station, not to stop young women to get their telephone number, refer to **Exhibit L of the ICIB-book (Exhibit A).**

The second sexual contact between Subject Marquez and Complainant [redacted] occurred in Subject Marquez' office sometime before the holidays in December 2013. Subject Marquez and Complainant [redacted] performed oral sex on each other and had intercourse while Complainant [redacted] knelt on Subject Marquez' chair. Subject Marquez ejaculated inside Complainant [redacted] and gave her paper towels to clean herself.

> **IAB Note:** Seminal fluid was indicated on Subject Marquez' chair. The DNA from this fluid was determined likely to have originated from Subject Marquez and Complainant [redacted] See report by Senior Criminalist Juli Watkins, #[redacted], labeled **Exhibit A, pages 75-75C**. A diagram of the office was generated by Forensic Identification Specialist David Alonso, #[redacted]. See **Exhibit A, page 77**.

The completed criminal investigation was submitted to the District Attorney's Office for filing consideration. The case was rejected on August 22, 2014 under District Attorney's case number 34743618. See **Exhibit A, pages 27D-27K.**

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STATEMENT SUMMARIES:

COMPLAINANT [redacted]

Complainant [redacted] was interviewed by ICIB Sergeants Quintero and Moeller on January 15, 2014. This interview was audio recorded and transcribed as **Job #45221**. See Transcriptions section for a verbatim copy of the interview. Sergeant Quintero summarized this interview in a supplementary report, refer to **Exhibit A, pages 5-13**. The following is a synopsis of that interview.

Complainant [redacted] stated, on or around November 15, 2013, between 1800 and 1900 hours, she and her friend "[redacted]" (Later identified as Witness [redacted]) were pulled over in a 2006 Dodge Charger by two Los Angeles County Sheriff's Deputies in the city of La Puente. Complainant [redacted] was never advised why she had been pulled over.

One of the deputies walked up to her driver's side window and requested her driver's license or identification. The second deputy contacted Mr. [redacted] who was seated in the right front passenger seat. After several minutes the second deputy asked Mr. [redacted] to exit the car. The deputy searched Mr [redacted] and detained him in the back seat of the patrol car. Complainant [redacted] recalled looking back and recognized the deputy who was searching Mr. [redacted] from previous contacts at her residence and apartment complex. Complainant [redacted] said she called out "Marquez" several times. A few moments later, Subject Marquez walked up to the open passenger door.

Subject Marquez began to talk to Complainant [redacted] and complimented her on her appearance. Subject Marquez asked Complainant [redacted] for her telephone number. Complainant [redacted] said she was about to give Subject Marquez her voice mail number because she did not want him to have her actual number. Complainant [redacted] stated she was flattered by Subject Marquez' compliments because he was a police officer, but was uncomfortable with his behavior.

At that point Subject Marquez' partner walked up and said she [redacted] Complainant [redacted] denied having any knowledge of the arrest warrant and challenged the deputy's information.

Subject Marquez intervened and told her and his partner not to worry about the warrant. Subject Marquez reassured Complainant [redacted] nothing would happen, and, if she were to get stopped by other police officers, to tell them she was working for him (Subject Marquez). Subject Marquez then asked Complainant [redacted] for her phone number. Complainant [redacted] reluctantly gave him her cell phone number of [redacted]. Subject Marquez immediately dialed the number, apparently to confirm if she gave him the correct number.

After approximately 15 minutes, Complainant [redacted] and Mr. [redacted] were allowed to leave without a citation. Complainant [redacted] stated she was never advised of the reason why she was pulled over. Complainant [redacted] stated Subject Marquez was wearing a sheriff's uniform with a ballistic vest on the outside of his uniform. His partner was wearing a regular sheriff's uniform with a jacket.

Later that same evening, at approximately 2000 hours, Subject Marquez called Complainant [redacted] and offered her help in clearing out the arrest warrant. ICIB investigators asked Complainant [redacted] what number Subject Marquez used to communicate with her. Complainant [redacted] confirmed Subject Marquez' telephone number he used was [redacted].

Complainant [redacted] added she was concerned about the arrest warrant and wanted to resolve the matter. Complainant [redacted] felt Subject Marquez could help her. Complainant [redacted] stated she didn't understand what Subject Marquez meant by "clearing out" the arrest warrant from the system, nor what it would entail. She believed the process could involve doing something illegal.

Complainant [redacted] added that Subject Marquez had sent her several text messages prior to the actual call in which he offered to help her clear out the warrant. Complainant [redacted] accepted Subject Marquez' offer to help her with the warrant and said she felt she needed his help to clear out her warrant situation.

On or around November 16, 2013, at approximately 1500 hours, Complainant [redacted] contacted Subject Marquez by telephone and asked if he could assist her with her arrest warrant. Subject Marquez agreed and instructed Complainant [redacted] to come to Industry Sheriff's Station. Complainant [redacted] met Subject Marquez at Industry Sheriff's Station later that evening at 1700 hours in the front lobby. Deputy Marquez quickly escorted her to the OSS trailer across the street from the station.

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Subject Marquez and Complainant [redacted] engaged in regular conversation as he walked Complainant [redacted] into the office building. Complainant [redacted] stated Subject Marquez was holding a piece of paper with her name printed on it.

Subject Marquez brought Complainant [redacted] into a conference room and filled out a citation, #Y407127, instructing her to respond to Pasadena Court on January 20, 2014, at 0830. Subject Marquez contacted the Industry Station Jail and obtained a booking number for her (Booking #3775304) **refer to Exhibit A- ICIB book page 66.**

Complainant [redacted] stated Subject Marquez was friendly and was complimentary of her during this contact. Once the citation was completed, Subject Marquez walked her out to her car. He unexpectedly gave her a hug and a kiss on her cheek and asked her to go out on a date with him on the following Friday. This caught her by surprise, however, she agreed because he was a police officer and she was on probation. Complainant [redacted] stated the situation felt uncomfortable, but added she went along with the date because she didn't want to get "pulled over" in the future because he was a police officer.

Complainant [redacted] stated she never told Subject Marquez his advances were unwelcome. Complainant [redacted] stated she and Subject Marquez agreed to go to the movies at a later date, though she never believed they would actually go because of the awkwardness of the situation.

The following days Subject Marquez and Complainant [redacted] maintained constant contact by text messaging and calls on the cell phone. She described the content of the messages and conversations progressing from flirtatious to sexually suggestive and eventually to sexually explicit. Complainant [redacted] described to ICIB investigators one flirtatious message in which Subject Marquez expressed his desire to kiss her lips. She then gave an example of an explicit message in which he expressed his desire for her to "ride his cock and suck his dick."

The text messages continued for several days. Subject Marquez asked her to come see him in his office at Industry Station, several times. Several days later, Complainant [redacted] went to see him (unknown date) because she felt pressured to do so. They went into the conference room where she had been a few days prior. She felt uncomfortable because she was on probation.

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While in the conference room, they engaged in general conversation but she felt he wanted the meeting to lead to a sexual contact. Complainant [redacted] felt uncomfortable and moved to leave. She was surprised when he told her "Did I say you could leave?" She thought he was playing around but realized he was serious. She eventually walked out to her car, with Subject Marquez following her. Complainant [redacted] estimated she was inside the office for approximately 10 minutes.

Once outside, she gave Subject Marquez a hug as if to say goodbye and entered her car to drive away. Subject Marquez suddenly leaned into the car and gave her a French kiss. Complainant [redacted] recalled him sticking his dry tongue into her mouth. She stated this was very uncomfortable. She stated she did not pull back and participated in the kiss. Furthermore, she felt this advance (kiss) was unwanted.

Complainant [redacted] stated she and Subject Marquez exchanged text messages about this specific incident. She expressed her surprise as to his actions. They continued contacting each other by text messages for the next few days. Complainant [redacted] said Subject Marquez was very persistent in asking her to visit him at the station. She estimated he asked her 3 to 4 times, before she agreed.

Complainant [redacted] recalled a situation a few days after she went to visit him at his office. She was at home when he contacted her by phone and asked her to step out of her house.

She saw Subject Marquez and several other deputies detaining her neighbor [redacted]. She stated as she stepped outside, Subject Marquez opened the rear door to his patrol car where her neighbor [redacted] was seated. Complainant [redacted] felt this put her in a situation that made her appear to be a "snitch." Though she felt he did this unwittingly, she expressed her anger to him about his actions.

The text messages and phone calls continued as Subject Marquez continually asked to see her. Complainant [redacted] felt he began to visit her complex more often and was "messing" with her neighbors. She felt she had to go visit him so he would stop coming around her apartment complex.

Complainant [redacted] stated several days later she was out jogging, when Subject Marquez stated he was at her apartment complex. She went to see him later that evening at his office. When she arrived he gave her a big hug and escorted her into his personal office. The office was small with four individual desks with four large swivel office chairs made of black leather or vinyl type material.

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Once inside the office, Subject Marquez and Complainant [redacted] embraced and he began kissing her aggressively, in a forceful manner. Subject Marquez was sucking and biting her lips really hard and rubbing her face with his hands. She recalled feeling pain in her face. He then pulled her tights down with one hand. He began fondling her buttocks and caressing her vagina.

In the middle of this embrace, someone walked into the main portion of the office area and startled them. Subject Marquez quickly sat back in his chair and told her to arrange her clothes. Complainant [redacted] said her cotton tights and her underwear were down around her thighs and her sweater and t-shirt were pulled up. She quickly arranged her clothes and they both walked out of the office. She recalled Subject Marquez telling her to wipe the lipstick off her face, however, she was not wearing lipstick. She believed it was redness she sustained from his forceful kissing.

Subject Marquez continued texting Complainant [redacted] the next day, telling her he was crazy about her and wanted to see her. Complainant [redacted] stated they did not have any contact during the next few days.

Complainant [redacted] stated she called the Industry Station Watch Commander and spoke to Sergeant James Beamon.

Complainant [redacted] wasn't sure what day she called, but she believed it was December 5 or 6, 2013 when she called to make a complaint against Subject Marquez for fondling her buttocks and vagina.

Complainant [redacted] stated Sergeant Beamon did not take her seriously or did not know what to do with the information. Sergeant Beamon provided Complainant [redacted] with the telephone number to Internal Affairs Bureau.

Complainant [redacted] stated she called Internal Affairs Bureau on December 6, at 0026 hours and spoke with Sergeant Pena #[redacted] (Sheriff's Headquarters). She told him Subject Marquez had pulled her over and began to constantly call her and text her. She told Sergeant Pena the deputy pressured her into coming to Industry Station where he forced her into a sexual encounter. Complainant [redacted] refused to give her name or the name of Subject Marquez because she was in fear of retaliation from him if she went through with the complaint. (refer to **Exhibit L of the ICIB book (Exhibit A).** Refer to the summary of that phone call, **Exhibit A, page 27).**

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The following day, after not having any contact with Subject Marquez for about a week and a half, she received a call from him. Subject Marquez asked her to meet him at the La Puente City Hall. She refused to do so and told him he was crazy and random. Eventually Subject Marquez convinced her to continue talking to each other. They continued texting and calling one another and the calls became increasingly sexual in nature. Complainant [redacted] admitted she sent sexually explicit pictures of herself to Subject Marquez on a couple of occasions. Their phone messages were about seeing each other and evolved into having sex at some point in the future.

On or around December 17, 2013, Subject Marquez and Complainant [redacted] met in the OSS office at approximately 2030 hours. Prior to this meeting, they exchanged text messages and phone calls which led to the mutual understanding they were going to engage in sexual intercourse. Complainant [redacted] stated she did talk about having sex with Subject Marquez, but she was not the aggressor and she went along with his repeated requests to have sex.

Complainant [redacted] said she mentioned a dietary supplement to Subject Marquez, which he was interested in buying and that was another reason she met with him that particular day. She further added she had sent him product information about the supplement to his e-mail and explained she needed to help him establish an account using his computer.

On this particular day, Subject Marquez escorted her into the same work office. He closed the door and turned off the lights. They engaged in fondling and kissing each other for a few minutes. He began fondling her vagina and eventually removed his clothes. She removed her jeans and underwear because he was having trouble fondling her. Since space was limited to have sex, Subject Marquez placed her on her knees on the black leather swivel chair in a "doggie style" position. As Complainant [redacted] was on her knees and facing away from Subject Marquez, he came up from behind her and placed his erect penis inside her vagina. Subject Marquez continued having sex with her for a couple of minutes. Complainant [redacted] recalled feeling a warm fluid in her vagina and feared he may have ejaculated inside her.

Complainant [redacted] stated she felt angry and concerned because she believed she could become pregnant. She turned around and saw his penis was now limp, however he denied ejaculating inside her. She turned around and saw a large quantity of what she believed to be ejaculate and vaginal fluids on the swivel chair.

Subject Marquez used napkins as well as a white cloth to clean himself and the chair of bodily fluids. He handed her paper towels so she could clean herself as well. She stated he got the cloth towel from his nearby locker and handed her the towel so she could further clean herself.

After cleaning and dressing themselves, Complainant [redacted] helped Subject Marquez obtain an account for the dietary supplement on his computer. She eventually left the office and talked to Subject Marquez the following day. She was concerned about an upcoming court case she had in the city of Pomona. Subject Marquez said he wanted to help her with the court case.

The following days she had sporadic contact with Subject Marquez. She wanted to meet with him because she wanted help with her court case and to discuss the possibility he ejaculated inside her. She further stated she was late for her menstrual cycle.

Subject Marquez requested she bring him a copy of the arrest report, but she refused to do so. She had not seen or heard from Subject Marquez again. She broke off all communications and told him she had retained an attorney.

Complainant [redacted] stated to ICIB investigators throughout their interview she was in constant fear of Subject Marquez and believed he could do something to affect her negatively if she ended her relationship with him. She stated she believed Subject Marquez could somehow help her with her arrest warrant. She felt she needed his help as police officer and felt she had to fully participate in the sexual contacts with him.

Complainant [redacted] told ICIB Investigators Subject Marquez digitally penetrated her vagina when he fondled her. She added she was never anally penetrated and that she had washed the clothing she wore the night they had sexual intercourse. Complainant [redacted] stated she never told her probation officer about her contact with Subject Marquez.

ICIB Investigators showed Complainant [redacted] a photographic line-up (six pack) with Subject Marquez' most current Department of Motor Vehicles photograph in the number 2 position.

Complainant [redacted] looked at the photographs and immediately pointed to Subject Marquez' photograph, **refer to Exhibit A-ICIB book page 28.**

She circled the photograph and placed the date and her signature next to the photograph. Complainant [redacted] expressed concern for her personal safety. Her concerns were addressed by ICIB Investigators.

DEPARTMENT WITNESS:

<u>WITNESS SEAN CARIAGA #</u>[redacted]

Witness Cariaga was interviewed by ICIB Sergeants Quintero and Lopez on January 30, 2014. This interview was audio recorded and transcribed as **Job #45220**. See Transcriptions section for a verbatim copy of the interview. Sergeant Quintero summarized this interview in a supplementary report. See **Exhibit A, pages 22-24**

Witness Cariaga stated he recalled stopping Complainant [redacted] on November 14, 2013, along with a male passenger. Witness Cariaga believed Subject Marquez was using Complainant [redacted] as an informant but he wasn't sure, that was his assumption. Witness Cariaga stated he never saw any behavior that would have led him to believe Subject Marquez and Complainant [redacted] were having a personal relationship. Witness Cariaga believed he saw Complainant [redacted] again after this traffic stop and remembered citing her out for a warrant. Witness Cariaga stated Subject Marquez would receive phone calls and then he and Subject Marquez would go over to the [redacted] looking for people. He believed that person providing Subject Marquez with information was Complainant [redacted]

CIVILIAN/INMATE WITNESSES:

<u>WITNESS</u> [redacted]

On Thursday, January 30, 2014, Sergeant Quintero interviewed [redacted] over the telephone. Sergeant Robert Lopez witnessed the interview. Witness [redacted] was [redacted]. He feared he would be arrested if he met ICIB investigators in person. The interview was audio recorded and transcribed, **Job #45225**. For ICIB's summary of this interview, **refer to Exhibit A-ICIB book page 25.** The following is a summary of that interview.

Witness [redacted] stated he was a passenger inside Complainant [redacted] car on November 14, 2013. Complainant [redacted] was driving him home when they were stopped by two deputies. He estimated the stop occurred around 1600 or 1700 hours. Witnesses [redacted] was removed from the car and detained in the back seat of the patrol car. He estimated the traffic stop lasted approximately fifteen minutes.

After the traffic stop, Complainant [redacted] told Witness [redacted] that one of the deputies asked her for her phone number. Witness [redacted] felt that was wrong because they did not know if Complainant [redacted] was his wife or love interest. Witness [redacted] recalled Complainant [redacted] stating she knew Subject Marquez and, recalls hearing Complainant [redacted] yell out "Marquez" several times during the traffic stop.

In the weeks following the traffic stop, Witness [redacted] recalled calling Complainant [redacted] on the phone. During that phone call, Complainant [redacted] told him she was dating a police officer. He stated she told him she had gone to the sheriff's station to see him. Witness [redacted] had no further information.

WITNESS [redacted]

On March 21, 2014, Sergeants Quintero and Moeller from ICIB interviewed Witness [redacted] at Men's Central Jail in Los Angeles. They obtained information from Sergeant [redacted] assigned to the Industry Sheriff's Narcotics Bureau that Witness [redacted] made statements to investigators indicating he had knowledge of the circumstances surrounding the allegations made against Subject Marquez. Witness Perez told investigators from Industry Station that Complainant [redacted] had also accused him of sexual assault in the past.

Witness [redacted] told Sergeant Quintero he had been a gang member from the "Bassett" street gang in the past. Witness [redacted] did not know Complainant [redacted] nor has she ever accused him of sexual assault. Witness [redacted] added he had never been accused of sexual assault by any female, ever. Witness [redacted] offered no additional information. For the audio recording of that interview, refer to audio **Job #45226.** An audio CD was also placed in the **Attachment section of the ICIB book, Exhibit A.**

SUBJECT INTERVIEWS:

ICIB INTERVIEW OF SUBJECT DAMIAN MARQUEZ

Subject Marquez was interviewed by ICIB Sergeants Quintero and Moeller on January 28, 2014. The interview was audio recorded and transcribed as **Job #45223.** See Transcriptions section for a verbatim copy of the interview. Sergeant Quintero summarized this interview in a supplementary report. See **Exhibit A, pages 15-22.**

Subject Marquez met Complainant [redacted] while handling calls for service in the city of La Puente. They recognized each other during this traffic stop four months ago.

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Complainant [redacted] lived in the [redacted] and was interested in becoming an informant for him. They discussed the apartment complex she lived in, which he and his partners knew as the "[redacted]."

Subject Marquez and Complainant [redacted] exchanged phone numbers. During this contact, Subject Marquez learned Complainant [redacted] [redacted] and he told her to take care of it.

Complainant [redacted] contacted Subject Marquez on his city issued cell phone [redacted]) and asked him for help in taking care of the warrant. Subject Marquez agreed and asked her to come to the station. He issued Complainant [redacted] a citation for the arrest warrant and gave her a new court date.

IAB NOTE: Sergeant Morris Contacted Lieutenant Pedro Cachiero #[redacted] from Industry Station and confirmed Subject Marquez' city issued cell phone assigned to him was [redacted]

Subject Marquez admitted to texting Complainant [redacted] flirtatious text messages, however he denied texting sexually explicit messages. Subject Marquez stated Complainant [redacted] sent him several photographs of her vaginal area and buttocks to his city issued phone. Subject Marquez stated all of his communication with Complainant [redacted] was by using his city issued cell phone. ICIB investigators asked Subject Marquez if he had sexual intercourse with Complainant [redacted] in his office. Subject Marquez denied having any sexual contact with Complainant [redacted]

Sergeant Moeller and Sergeant Quintero told Subject Marquez that Complainant [redacted] saved the text messages between the two of them and some of the texts indicated a sexual encounter had taken place in his office.

Subject Marquez admitted on one occasion, he and Complainant [redacted] kissed and fondled each other when she came to see him at his office. On another occasion, Subject Marquez and Complainant [redacted] performed oral sex on each other which led to sexual intercourse inside his office. Subject Marquez believed this incident occurred in late December, just before the holidays.

Subject Marquez had a brief relationship with Complainant [redacted] which was consensual and at no time did she express to him she felt uncomfortable.

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IAB INTERVIEW OF SUBJECT MARQUEZ

On April 14, 2015, Subject Marquez was interviewed by Internal Affairs Bureau Investigators Sergeant Morris and Sergeant Jeff Hamil and at Internal Affairs Bureau in the city of Commerce. On June 2, 2015, Subject Marquez was interviewed by Sergeant Morris and Lieutenant Carter Internal Affairs Bureau in the city of Commerce. The interviews were digitally recorded. For the verbatim interviews, refer to the transcripts in the Transcription section of this report. The following is a summary of those interviews.

Subject Marquez stated he initially met Complainant [redacted] on a report call back in 2008 or 2009 when he took a report for a stolen vehicle. On November 14, 2013, he and his partner Deputy Sean Cariaga pulled her and Witness [redacted] over in the city of La Puente.

Subject Marquez was shown a DMV photograph of Complainant [redacted] Subject Marquez recognized the photograph, **refer to Exhibit C**. During the traffic stop, Complainant [redacted] recognized Subject Marquez and the two began to talk. Complainant [redacted] wanted to be an informant for Subject Marquez. Subject Marquez never intended on using Complainant [redacted] as an informant, nor was she processed as an informant. Subject Marquez has used informants in the past, but none of them had been processed.

Subject Marquez and Deputy Cariaga advised Complainant [redacted] she [redacted] Complainant [redacted] didn't believe she [redacted] Subject Marquez told Complainant [redacted] she could go down to the station and [redacted]. Subject Marquez was shown a copy of his unit details for November 14, 2013, **refer to Exhibit C**. Subject Marquez recalled the traffic stop and Complainant [redacted] [redacted] from that day.

At the end of the traffic stop, Subject Marquez and Complainant [redacted] exchanged telephone numbers in case she needed help with [redacted]. Subject Marquez was going to help Complainant [redacted] [redacted] by issuing her a citation [redacted].

Subject Marquez stated he did not cite Complainant [redacted] out on November 14, 2013, because she was going to [redacted]. Subject Marquez could not recall if he called Complainant [redacted] on her cell phone during or after the traffic stop.

IAB NOTE: Phone records retrieved by ICIB Investigator Sergeant Quintero showed a call being made by Subject Marquez' city issued phone [redacted] to Complainant [redacted] cell phone [redacted] at 1906 hours on November 14, 2013, **refer to Exhibit A ICIB book, Page 91.** This phone call was recorded at the same time as Complainant [redacted] was entered into "Wanted Persons" on Subject Marquez' patrol vehicle MDC, refer to Unit History report, **Exhibit A-ICIB Book page 65**.

The following day, on November 15, 2015, Complainant [redacted] called Subject Marquez and asked him for help [redacted]. On November 15, 2013, Complainant [redacted] was [redacted] by Subject Marquez at the Industry Sheriff's Station, at the La Puente SAO/OSS trailer. Subject Marquez was shown a photocopy of the citation he issued Complainant [redacted] [redacted], **refer to Exhibit C**. Subject Marquez stated he recognized the citation. Subject Marquez' supervisor, Sergeant Sandoval was notified Complainant [redacted] was coming to the station to be cited out for her warrant.

The following month, Subject Marquez and Complainant [redacted] stayed in touch almost daily by text messaging and phone calls. Complainant [redacted] began to text Subject Marquez sexually explicit messages several days after she was [redacted] Subject Marquez stated he sent explicit text messages which were sexual in nature to Complainant [redacted] Subject Marquez was shown numerous text messages between him and Complainant [redacted] Subject Marquez recalled most of the messages, however he could not recall several messages which were more explicit, nor did he remember who sent those messages. Subject Marquez sent several text messages to Complainant [redacted] while he was on duty.

The following month, Subject Marquez and Complainant [redacted] saw each other 3 or 4 times. Two of those contacts became sexual in nature. During one of those meetings, Subject Marquez and Complainant [redacted] kissed each other, and fondled each other while inside his office inside Industry Station OSS trailer. Subject Marquez stated he fondled her vagina and she fondled his penis. Subject Marquez never made Complainant [redacted] feel that she was not free to leave at any point during their contacts.

On another incident, in late December 2013, just before the holidays, they met inside his office at the OSS trailer after his shift. Subject Marquez stated they both performed oral sex on each other. The oral sex led to sexual intercourse on his office chair.

INTERNAL AFFAIRS BUREAU

INVESTIGATIVE SUMMARY

Subject Marquez stated during the sexual intercourse, he ejaculated inside Complainant [redacted] vagina. Complainant [redacted] believed Subject Marquez ejaculated inside of her vagina and became upset with him. Subject Marquez denied ejaculating inside Complainant [redacted] when she questioned him about it.

Subject Marquez was shown of crime scene sketch of his office. Sergeant Morris directed Subject Marquez to draw a circle on the sketch, depicting where the chair was located in his office when they had sexual intercourse, **refer to Exhibit C**.

The days following the sexual intercourse, Subject Marquez stopped all communications with Complainant [redacted] He stated she became angry with him and stated she was concerned about being pregnant because she was late for her menstrual cycle. Subject Marquez stated he had a vasectomy several years back and told Complainant [redacted] not to stress about being pregnant.

Subject Marquez never saw Complainant [redacted] again after they had sexual intercourse. Subject Marquez stated he never used his position as a Deputy Sheriff to pressure Complainant [redacted] into a sexual relationship. He added this sexual encounter with Complainant [redacted] was not a good ethical decision on his part. Subject Marquez was not aware Complainant [redacted] was [redacted] until he was questioned by ICIB investigators. He believed she only had [redacted]. He felt he was not in violation of the Departments Fraternization policy.

Subject Marquez never made any promises to Complainant [redacted] prior to asking her for her phone number. Subject Marquez did not offer to help Complainant [redacted] with a case out of Pomona Court regarding her nursing license. Subject Marquez asked her for a copy of the police report, however he never said he could help her with that case.



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



August 5, 2015

Deputy Damian Marquez, [redacted]

Dear Deputy Marquez:

You are hereby notified that it is the intention of the Sheriff's Department to discharge you from your position of Deputy Sheriff, Item No. 2807A, with this Department, effective the close of business August 26, 2015.

An investigation under IAB File Number IV2349523, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/030.10, Obedience to Laws, Regulations, and Orders [as it pertains to 3-01/000.13, Professional Conduct – Core Values]; and/or 3-01/030.07, Immoral Conduct; and/or 3-01/030.05 General Behavior; and/or 3-01/030.15, Conduct Toward Others, when on approximately November 25, 2013 and in approximately mid-December, 2013, you failed to maintain a level of moral, professional conduct in keeping with the highest standards of the law enforcement profession, when on at least two occasions, you allowed into a Sheriff's Department facility, [redacted] a female on felony probation with outstanding warrant(s), with whom you engaged in sexual relations on Department premises; as evidenced by, including, but not limited to:

   a) On or about November 25, 2013, you pulled down Ms. [redacted] pants and/or fondled her vagina, and/or digitally penetrated her vagina, and/or Ms. [redacted] fondled your penis; and/or,

   b) In approximately mid-December 2013, you and Ms. [redacted] performed oral sex on each other and had intercourse while Ms.

[redacted] knelt on your chair.

2. That in violation of Manual of Policy and Procedures Sections 3-01/050.85, Fraternization and Prohibited Associations; 3-01/030.10, Obedience to Laws, Regulations, and Orders [as it pertains to 3-01/000.13, Professional Conduct – Core Values]; 3-01/030.05, General Behavior, when on or about November 14, 2013 to approximately mid-December, 2013, you failed to maintain a level of moral, professional conduct in keeping with the highest standards of the law enforcement profession, when you maintained a personal relationship with [redacted] after detaining her on-duty, with knowledge of her outstanding arrest warrant and/or learning later of her other past criminal activity (including, but not limited to felony conviction and probation).

3. That in violation of Manual of Policy and Procedures Sections 3-01/100.45, Use of Communications Equipment; 3-01/050.85, Fraternization and Prohibited Associations; 3-01/030.10, Obedience to Laws, Regulations, and Orders [as it pertains to 3-01/000.13, Professional Conduct – Core Values]; 3-01/030.05, General Behavior, when between approximately November 14, 2013 and December 18, 2013, while on and off-duty, you inappropriately utilized a cellular phone issued by the City of La Puente for use exclusively for City of La Puente and Department business as an authorized user from the Los Angeles County Sheriff's Department Special Assignment Team. You sent and received hundreds of personal messages including sexually suggestive and explicit messages and photographs to/from Ms. [redacted] a felony probationer with outstanding warrant(s).

4. That in violation of Manual of Policy and Procedures Sections 3-01/040.75, Failure to Make Statements and/or Making False Statements During Departmental Internal Investigations; and/or 3-01/040.85, Cooperation During Criminal Investigation; and/or 3-01/040.70, False Statements; and/or 3-01/040.76, Obstructing an Investigation/Influencing a Witness, when on or about January 28, 2014, you failed to make full, complete, and/or truthful statements to criminal investigators during questioning by Internal Criminal Investigations Bureau; as evidenced by, including, but not limited to:

   a) Any time she [redacted] came in or there was…I always made sure there was somebody in here. I always made sure my supervisor was aware I had this informant come in…"; and/or,



b) Engaging in phone calls and/or text messages with Ms. [redacted] to see if she was going to be a "good informant or not, and that's it"; and/or,

c) Denying that you ever told Ms. [redacted] I can't wait 'til you suck my cock"; and/or,

d) Denying ever embracing Ms. [redacted] in a full on kiss; and/or,

e) Denying hugging, kissing, groping, caressing Ms. [redacted] body or buttocks, or the front or vaginal area; and/or,

f) Denying ever exposing Ms. [redacted] vaginal area and inserting your finger in her vaginal area to caress her, or anything to that effect; and/or,

g) Denying a conversation that Ms. [redacted] and you were going to have sexual intercourse in your office; and/or,

h) Denying having sex with Ms. [redacted] in your office, on your chair, or her giving you oral sex in your office; and/or,

i) Denying giving Ms. [redacted] oral sex in your office; and/or,

j) Denying having any sexual encounter with Ms. [redacted] in your office whatsoever, denying any hugging or touching Ms. [redacted] in your office; and/or,

k) Denying calling Ms. [redacted] at the traffic stop when she gave you your number; and/or,

l) Denying penetrating Ms. [redacted] with one of your fingers; and/or,

m) Stating that after giving Ms. [redacted] your card, Ms. [redacted] gave you her number "so you know when the number pops up".

5. That in violation of Manual of Policy and Procedures Sections 3-01/040.75, Failure to Make Statements and/or Making False Statements During Departmental Internal Investigations; and/or 3-01/040.70, False Statements; when on or about April 14, 2015 and/or June 2, 2015, you failed to make full, complete, and/or truthful statements during your Internal Affairs Bureau investigation; as evidenced by, including, but not limited to:

a) "The only criminal history I was aware of was when we initially stopped her [redacted] and I saw she had a misdemeanor warrant and that was it"; and/or,

b) Claiming Ms. [redacted] gave you her phone number at the end of the traffic stop; and/or,

c) Stating that Ms. [redacted] called you the day after the traffic stop.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

You may respond to the intended action orally or in writing. In the event that you choose to respond orally to these charges, you have already been scheduled to meet with Chief Stephen B. Johnson, on August 25, 2015, at 1030 hours, in his office, which is located at 211 West Temple Street, 7th Floor, Los Angeles, California 90012. If you are unable to appear at the scheduled time and wish to schedule some other time prior to August 25, 2015, for your oral response, please call Chief Johnson's secretary at [redacted] for an appointment.

If you choose to respond in writing, please call Chief Johnson's secretary to cancel your scheduled appointment, and send your response to the facts contained in this letter to Chief Johnson's office by no later than August 26, 2015.

Unless you are currently on some other type of authorized leave, pursuant to Rule 16.01 of the Los Angeles County Civil Service Commission Rules, effective immediately, you are on paid administrative leave which will continue during the fifteen (15) business days you have to respond to the intended discharge or until the conclusion of your pre-disciplinary hearing. If you are presently on an authorized leave, that leave will continue during the fifteen (15) business days you have to respond to the intended discharge, or until the conclusion of your pre-disciplinary hearing.

Failure to respond to this Letter of Intent within fifteen (15) business days will be considered a waiver of your right to respond and will result in the imposition of the discipline indicated herein.

If you did not receive the investigative material on which your discipline is based at the time you were served with this correspondence, you may contact the Internal Affairs Bureau at (323) 890-5300, to obtain a copy of the case file.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

Donnie L. Mauldin, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

DLM:LDL:ll

c: Advocacy Unit
Employee Relations Unit
Chief Stephen B. Johnson, East Patrol Division
Internal Affairs Bureau
(File # IV2349523)

LOS ANGELES COUNTY DISTRICT ATTORNEY CHARGE EVALUATION WORKSHEET

X FELONY MISDEMEANOR	AGENCY NAME LASD - INTERNAL CRIMINAL	DA CASE NO. 34743618	DATE 08/22/2014
	AGENCY FILE NO. (DR OR URN) 914-0003-2003-441	DA OFFICE CODE J.S.I.D. #14-0151R	VICTIM ASSISTANCE REFERRAL ☐ YES – NOTIFY VWAP ☐ NO

SUSP NO.	SUSPECT	CHARGES: CODE	SECTION	OFFENSE DATE	REASON CODE
1	NAME (LAST, FIRST MIDDLE)) MARQUEZ, DAMIAN	PC PC	289(G) 261(A)(1)	11/26/2013 12/17/2013	B B
	DOB · SEX (M/F) M · BOOKING NO. · VIP X Yes -- No · VIP - (05) Sexual Abuse - Acquaintance				
	___ Gang Member Name of Gang	___ Victim Gang Member Name of Gang:			
	Victim Name: JANE DOE	Victim DOB: 01/01/1901			
2	NAME (LAST, FIRST MIDDLE))				
	DOB · SEX (M/F) · BOOKING NO. · VIP -- Yes -- No				
	Gang Member Name of Gang	___ Victim Gang Member Name of Gang:			
	Victim Name:	Victim DOB:			
3	NAME (LAST, FIRST MIDDLE))				
	DOB · SEX (M/F) · BOOKING NO. · VIP -- Yes -- No				
	Gang Member Name of Gang	___ Victim Gang Member Name of Gang:			
	Victim Name:	Victim DOB:			

LAST NAME: MARQUEZ FIRST NAME: DAMIAN DA CASE NUMBER: 34743618

Comments

SEE ATTACHED.

COMPLAINT DEPUTY (print)	COMPLAINT DEPUTY (SIGNATURE)	STATE BAR NO.	REVIEWING DEPUTY (SIGNATURE)
ROSA ALARCON/ap	Rosa Alarcon	198501	[signature]

I have conveyed all relevant information to the above-named Deputy District Attorney to be used in consideration of a filing decision.

FILING OFFICER (PRINT): SGT. MARCELO QUINTERO FILING OFFICER (SIGNATURE): mailed 8/26/14 SERIAL #: [redacted]

DEPARTMENT OF JUSTICE REASON CODES (FORM 8715)			DISTRICT ATTORNEY'S REASON CODES
A. Lack of Corpus B. Lack of Sufficient Evidence C. Inadmissible Search/Seizure	D. Victim Unavailable/Declines To Testify E. Witness Unavailable/Declines to Testify F. Combined with Other Counts/Cases G. Interest of Justice	H. Other (indicate the reason in Comments section) I. Referred to Non-California Jurisdiction J. Deferred for Revocation of Parole K. Further Investigation	L. Prosecutor Prefiling Deferral M. Probation Violation filed in lieu of N. Referred to City Attorney for Misdemeanor Consideration

27 – d

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of allegations that Los Angeles County Sheriff's Department (LASD) Deputy Damian Marquez, Serial [redacted] committed the crimes of sexual penetration and rape under color of authority, in violation of Penal Code sections 289(g) and 261(a)(7). For the reasons set forth below, this office declines to initiate criminal proceedings.

The following analysis is based upon reports prepared by the LASD, Internal Criminal Investigations Bureau (ICIB), and submitted to this office by Captain William T. Carey.

FACTUAL ANALYSIS

Statement of Jane Doe

On November 15, 2013, at approximately 6:00 p.m., Jane Doe was stopped by Deputy Marquez and his partner, Deputy Sean Careaga, while driving her vehicle on Sunset Street in the City of La Puente. She was with a friend, [redacted] who was seated in the passenger seat of the vehicle. Careaga requested her driver's license while Marquez directed [redacted] out of the car, searched him and escorted him to the patrol car. Doe recognized Marquez from previous contacts at her residence and called out "Marquez," several times.[1] Marquez approached her, engaged her in conversation and complimented her appearance.

While Doe and Marquez were talking, Careaga informed Marquez that Doe had an outstanding arrest warrant.[2] Doe denied any knowledge of the warrant. Marquez told Doe and Careaga not to worry about the warrant. Marquez reassured Doe that nothing would happen, and, if she were stopped by other officers, to tell them she was working for him. Marquez then asked for her cell phone number, which she reluctantly gave. After approximately fifteen minutes, Doe and [redacted] were allowed to leave without a citation.

Later that evening, Marquez sent Doe several text messages and called to ask her if she needed help clearing the arrest warrant. Doe took the call because she felt she needed Marquez's help. She was receptive to Marquez and his flattering comments because he was a police officer but she was uncomfortable and intimidated by his behavior.

On November 16, 2013, at approximately 3:00 p.m., Doe called Marquez and asked him if he could help her with the arrest warrant. He agreed to do so and instructed her to come to his office at the City of Industry Sheriff's Station (Industry Station). Doe met Marquez at the station that evening and he escorted her to a bungalow-type office located across the street from the station.

Marquez and Doe engaged in regular conversation. Marquez took her into a conference room and filled out a citation, instructing her to respond to the Pasadena Courthouse on January 15, 2014. Marquez then walked Doe to her car. Marquez unexpectedly gave Doe a hug and a kiss

[1] Doe recalled Marquez responding to her residence in La Puente because he[redacted] at the time, assaulted her and stole her car. She also met Marquez when he responded to her apartment complex looking for an armed suspect.

[2] Doe had an outstanding arrest warrant in the amount of $26,000 for a violation of Penal Code section 653m(b), annoying phone calls.

on the cheek and asked her to go out on a date with him the following Friday. Doe agreed because Marquez was a police officer and she was on probation.[3]

In the following days, Marquez and Doe maintained constant communication via text messages and cell phone calls. The messages and conversations evolved from flirtatious to sexually suggestive and eventually to sexually explicit.

Marquez asked Doe several times to come see him at the station. Doe went to see him because she felt pressured to do so. They went to the conference room where they had previously met. They engaged in general conversation but Doe felt Marquez wanted to engage in sexual activity. She felt uncomfortable and tried to leave but Marquez told her, "Did I say you could leave?" Doe initially thought he was joking but then realized he was serious. She eventually left the office and walked to her car, with Marquez following behind. She gave him a hug and entered the car. Marquez suddenly leaned in and kissed her on the lips, placing his tongue in her mouth. Doe did not resist and participated in the kiss but she was very uncomfortable with this unwanted advance.

Thereafter, Marquez began going to Doe's apartment complex and "messing" with her neighbors. She recalled an incident in which Marquez called her and asked her to exit her apartment as he and other deputies were detaining one of her neighbors. She believed Marquez was stalking her. She felt she had to visit him in order for him to stop coming to her apartment complex.

On November 26, 2013, Doe was jogging when Marquez called her and told her he was at her apartment complex again. She decided to go see him that evening and went to the Industry Station at approximately 8:00 p.m. Marquez met her at the station and escorted her to his office. Once inside the office, Marquez and Doe embraced and he began kissing her aggressively. He bit her lip and kissed her so forcefully that her face became red and irritated.

Marquez pulled her leggings and her underwear down with one hand. He caressed her buttocks, fondled her vagina and penetrated her vagina with his fingers. Suddenly, someone walked into the main portion of the office and startled them. Marquez quickly sat back in his chair and told Doe to arrange her clothing. Doe felt relieved that someone had interrupted them. They promptly walked out of the office and Marquez walked her to her car. He asked her for a hug, grabbed her from behind, bent her over and made several pelvic thrusts against her buttocks. He told her he wanted to see how she would feel when they had sex in the future.

After this encounter, Marquez and Doe continued to exchange text messages. Marquez sent her a message asking her if it felt good when he touched her clitoris. She replied that she enjoyed it and told him it felt good. She "played along" with the messages.

Marquez and Doe continued to communicate via text for the next few days. Marquez told Doe he wanted to see her and he was "crazy about her." This was followed by a short period in

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[3] Doe was on probation in case number [redacted] for a violation of Penal Code section 136.1(b)(2), intimidating a witness or victim, and in case number [redacted] for a violation of Penal Code section 487(a), grand theft.

which there was no communication between them. During this lull in the communication, Doe thought Marquez "was done" so she tried to make a complaint against him.

On December 6, 2013, Doe called the Industry Station to report the incident in which Marquez touched her vagina. She spoke to the Watch Commander, Sergeant James Beamon. Beamon provided her with the phone number to the LASD Internal Affairs Bureau.[4] Doe could not reach the Internal Affairs Bureau so she called the Headquarters Bureau and described what took place at the Industry Station office. She never provided her name or contact information because she feared Marquez would retaliate against her.[5]

After having no contact with Marquez for over a week, Doe received a text message from him asking her to meet him. She refused to do so, telling him he was crazy and "random." However, Marquez persuaded her to continue their communication. They continued to exchange text messages and discussed having sexual intercourse in the future.

On December 17, 2013, at approximately 8:30 p.m., Doe met Marquez at the Industry Station. Prior to this meeting, they arrived at a mutual understanding that they were going to have sex. Marquez escorted her to his office, closed the door and turned off the lights. They fondled and kissed each other for a few minutes. Doe removed her jeans and underwear and he removed his clothes as well. They performed oral sex on each other. Marquez placed Doe on her knees on his office chair and inserted his penis into her vagina. He was not wearing a condom and ejaculated inside her vagina. Doe saw a large quantity of fluid on the seat.[6]

After cleaning and dressing themselves, Doe accessed Marquez's computer to help him with the purchase of some dietary products they had previously discussed. She then left the office. Marquez walked her part of the way to her car and gave her a hug.

On December 21, 2013, Doe went to the Pasadena Courthouse for a progress report hearing on one of the cases in which she was on probation. She was informed that the citation she was

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[4] Doe spoke to Sergeant Beamon at approximately 12:15 a.m. The call was recorded. Doe questioned Beamon about the Department's policy on "fraternization" between deputies and known felons. Beamon told Doe he would not answer "random" questions and asked her if she had a complaint. Doe then insinuated that she had been the victim of sexual misconduct during a visit to the bungalows across the street from the station. Beamon asked Doe for her name and the name of the deputy or personnel involved. Doe did not provide her name or Marquez's name. Doe requested the phone number to the Internal Affairs Bureau, which Beamon provided, and the call was terminated.

[5] Doe called the LASD Headquarters Bureau on December 6, 2013, at 12:26 a.m. and spoke to Sergeant Richard Pena. The call was recorded. Doe indicated that she wanted to file a complaint against a deputy at Industry Station. She said she was stopped on November 15, 2013, by two deputies. She said she felt that one of the deputies stopped her solely for the purpose of obtaining her phone number. She said the deputy began to constantly call her and send her text messages. She felt pressured into communicating with him because of his authority. She also felt pressured into responding to an office at Industry Station where the deputy forced her into a sexual encounter and touched her vagina. Doe did not provide her personal information and never identified the deputy. Before ending the call, she asked Pena to admonish deputies at Industry Station not to stop young women in order to "pick up on them."

[6] During an examination of Marquez's office, the LASD Scientific Services Bureau located a stain on the seat portion of a black swivel office chair located at Marquez's work station. The stain tested presumptively positive for semen. A sample of the stain was collected for DNA testing. The DNA analysis showed that the stain contained a mixture of DNA from Marquez and Doe.

issued my Marquez was technically an arrest. She was upset about that and confronted Marquez. Marquez explained that the citation did in fact constitute an arrest.

In the following days, Doe had sporadic contact with Marquez. She wanted to meet with him because she wanted his help with her court case. She also wanted to discuss the fact that he had ejaculated inside her because she was late with her menstrual cycle. He did not respond to her messages. After several messages, Marquez requested she bring her arrest report to him but she refused to do so. She did not return to his office. She told him she had retained an attorney and ended communications with him.[7]

Doe maintained that she was in constant fear of retaliation from Marquez. She believed he would do something to affect her negatively if she were to end their relationship.[8]

Statement of Damian Marquez

Marquez was interviewed on January 28, 2014. During the interview, he initially denied having any sexual contact with Doe and stated that he was interested in Doe becoming an informant for him. She lived in an apartment complex that was the source of many investigations. Marquez met Doe during a traffic stop in the area. They recognized each other from prior contacts. They exchanged cell phone numbers and discussed the apartment complex. During this contact, he discovered she had an arrest warrant and advised her to take care of it. Doe later contacted him on his cell phone asking for his help with the warrant. He agreed to help her and asked her to come to the station. He subsequently issued her a citation for the arrest warrant, providing her with a new court date.

Marquez and Doe maintained cell phone contact for several days. Doe flirted with him in the texts and phone calls but he ignored them. She came to see him at the station on three occasions. They met in the conference room and he always notified his supervisor or made sure he had a witness present. He went to Doe's apartment complex to investigate allegations of criminal activity. He did not go there in order to see Doe.

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[7] On January 13, 2014, Okourie Okorocha, an attorney retained by Doe, contacted the LASD Internal Affairs Bureau and alleged that Marquez engaged in sexual misconduct with Doe and stalked her. Okorocha stated that Marquez had Doe respond to his office several times for the purpose of helping her with her outstanding arrest warrant and obtaining information pertaining to criminal activity. Doe was intimidated by Marquez and was pressured into a sexual relationship with him. Marquez pressured her by sending her explicit text messages and phone calls and by exerting his authority as a police officer over her. Doe was on probation and succumbed to Marquez's advances because she feared retaliation if she refused.

[8] [redacted] was interviewed and said that on November 15, 2013, he was a passenger in Doe's vehicle when they were stopped by two deputies. Doe told him that she knew one of the deputies and he heard her call out "Marquez" several times. After the traffic stop, Doe told [redacted] that one of the deputies asked her for her cell phone number. In the following weeks, [redacted] had a conversation with Doe in which she stated that she was dating a police officer and that she had gone to the sheriff's station to see the deputy.

Marquez stated that Doe wanted to carry on a personal relationship. He admitted that he flirted with her in the text messages and phone calls and exchanged sexually explicit messages with her. In addition, she sent him several pictures of herself with her vagina and buttocks exposed.

Later in the interview, after being advised that Doe preserved many of the text messages between them, Marquez admitted having sexual contact with Doe in his office on two separate occasions. On one occasion, Doe touched his penis and asked him to touch her vagina. On the other occasion, they had sexual intercourse on a chair in his office.

In the days following their last sexual encounter, Doe questioned him about whether he had ejaculated inside her. He denied having done so. She continually sent him text messages questioning the sexual encounters. She seemed angry because he was not responding to her texts and calls.

Marquez stated that he never used his position to pressure Doe into a sexual relationship. His relationship with Doe was completely consensual. She never expressed to him that their contact was wrong or that she felt uncomfortable. He never inferred that he would affect her negatively if she did not agree to a sexual relationship. [9]

Text messages

Jane Doe's attorney, Okourie Okorocha, provided investigators with a two page document containing text messages to and from Marquez obtained from Doe's cell phone.[10] On November 19, 2013, Doe and Marquez exchanged text messages discussing having sexual relations and exchanging pictures.

On November 25, 2013, the day before their first sexual encounter at Industry Station, Doe and Marquez exchanged several sexually explicit text messages. During this exchange, they discussed engaging in sexual intercourse on Marquez's desk. Neither of them expressed an objection to this proposition.

On November 26, 2013, between 9:40 p.m. and 10:30 p.m., Doe and Marquez exchanged sexually graphic text messages in which they discussed their earlier meeting at the station that day.

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[9] Deputy Sean Careaga was interviewed and stated that he recalled a traffic stop in which he and Marquez stopped a female driving a purple Chrysler. There was a male passenger in the car. Marquez and the female knew each other. Careaga believed Marquez used the female as an informant in the past. He knew Marquez and Doe maintained phone contact because Careaga believed her to be the source of information pertaining to criminal activity at the apartment complex where she resided. When he and Marquez went to the apartments, it was for a criminal investigation and not to socialize with anyone. Careaga did not know that Marquez and the female were involved in a personal relationship.

[10] The text messages were obtained from Doe's cell phone using a cell phone application in Doe's phone. A group of texts may be retrieved but not altered using this application. The texts are listed under the name, "Damian," with a cell phone number that was confirmed to belong to Marquez. However, the individual texts do not identify the author of the message.

On November 27, 2013, Doe sent Marquez a number of sexually explicit text messages and indicated that she believed they had sexual "chemistry." Marquez was receptive to the text messages and participated in the exchange.

In the following days, the exchange of text messages between Doe and Marquez decreased. Doe sent Marquez several text messages telling him that she was thinking about him, that he was hot, and that she would like to see him. Marquez did not respond to these messages.

The document provided by Okorocha contains no text messages sent between December 2, 2013, and December 30, 2013. After that date, Doe sent Marquez several messages telling him she was upset because he ignored her.

LEGAL ANALYSIS

Penal Code sections 289(g) and 261(a)(7) provide that sexual penetration and rape under threat of authority are committed where the sexual acts are accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official

CALCRIM No. 1000 states that the defendant is not guilty of these offenses if he actually and reasonably believed that the woman consented to the sexual acts. The People have the burden of proving beyond a reasonable doubt that the defendant did not actually and reasonably believe that the woman consented.

Legal Policies Manual, 4.01.03 provides that it is the policy of the District Attorney's Office to consider the following in evaluating the credibility of a victim of an alleged sexual crime and the sufficiency of the evidence to support a filing:

- whether there exists any corroborative evidence to support the victim's allegations, such as physical injury or forensic evidence;
- whether additional witnesses corroborate the victim's account of the assault (including fresh complaint witnesses);
- any legally admissible statement made by the accused;
- whether the victim has a motive to lie;
- the accused's prior record for committing sexual assaults;

In this case, since Marquez admitted to engaging in sexual activity with Doe, including sexual intercourse, the forensic DNA evidence showing a mixture of both individuals is not helpful in determining whether any sexual offenses occurred. The issue is one of consent.

Marquez and Doe were largely consistent in their descriptions of the sexual encounters. Doe did not indicate that Marquez threatened to arrest, incarcerate or otherwise harm her in any way during any of their encounters. In fact, Marquez released her on the warrant at the time of the traffic stop and later issued her a citation without placing any conditions upon her or requesting anything in return. Marquez asked for her phone number, expressed an interest in her and asked her out on a date. Doe responded in kind to his advances.

Marquez's contention that the sexual acts were entirely consensual is supported by the text messages provided by Doe. Marquez and Doe had many text conversations about their sexual relationship and discussed the sexual encounters. There is nothing in the texts to indicate that there was any threat to exert authority over Doe in order to get her to agree to the sexual acts or that she was not a willing participant. On the contrary, Doe expressed her desire to have sexual intercourse with Marquez. In addition, when Doe and Marquez had sexual intercourse on December 17, 2013, they had a prior agreement that they would be having sex that day. Based on these circumstances, Marquez had every reason to believe that his sexual relationship with Doe was consensual.

Moreover, the content of many of the text messages raise serious concerns over Doe's credibility and motivations. Doe claims to have been pressured and intimidated into the relationship and in fear of retaliation. However, she initiated many of the contacts and expressly stated that she enjoyed the sexual acts and even looked forward to future sexual liaisons with Marquez. She also expressed disappointment, anger and concern each time Marquez failed to communicate with her. The tone, frequency and language used by Doe in her texts to Marquez are not indicative of someone who was being pressured into a sexual relationship or in fear of retaliation.

Additionally, some of the text messages suggest that Doe's motive for making a complaint against Marquez was due to Marquez ignoring her after their sexual encounters. Her first anonymous complaint to the LASD, as well as the complaint that ultimately led to this investigation, occurred after Marquez failed to respond to her text messages. In both instances, Doe sent him text messages expressing how upset she was about his lack of communication with her and in one of her final text messages to him, she advised him that she had retained an attorney.

In short, the People cannot prove beyond a reasonable doubt that Marquez did not actually and reasonably believe that Doe consented to the sexual acts and there is no reasonable basis on which to file criminal charges against him.

CONCLUSION

For all the reasons stated above, we decline to initiate criminal proceedings against Deputy Damian Marquez. We are closing our file and will take no further action in this matter.

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SETTLEMENT AGREEMENT

PRELIMINARY STATEMENT

This agreement is entered into between the Los Angeles County Sheriff's Department (hereinafter referred to as "Department") and Damian Marquez, (hereinafter referred to as "Mr. Marquez"), Employee Number [redacted]

RECITALS

The Department and Mr. Marquez are interested parties in the investigation under Internal Affairs Bureau No. IV2349523. Both desire to resolve all disputes arising as the result of that investigation, to avoid litigation and further administrative process upon the terms and conditions hereinafter set forth.

NOW THEREFORE, the Department and Mr. Marquez for and in consideration of the mutual Covenants herein, agree as follow:

1. Upon execution of this Agreement, the Department will rescind the Letter of Intent dated August 5, 2015. In lieu of discharge, the Department will allow Mr. Marquez to resign. Mr. Marquez understands, agrees, and acknowledges that he will submit his resignation from the position of Deputy Sheriff, Item No. 2708A, to the Department effective the close of business on November 16, 2015. The resignation will be attached to this Agreement as Exhibit "A."

2. Mr. Marquez will be paid through the close of business on November 16, 2015. Mr. Marquez will receive no back pay, no benefits, and no financial or other consideration as a result of entering into and/or executing this Agreement. There will be no issues of back pay.

3. Upon execution of this Agreement, Mr. Marquez understands, agrees, and represents that he will not seek employment or be employed at any time by the County of Los Angeles and the Los Angeles County Sheriff's Department after submission of his resignation.

4. The Department's PPI index will state "Founded, Resigned" under IAB No. IV2349523.

12-9-15

5. The parties understand that a prospective employer of Mr. Marquez may contact the Department to request information pertaining to Mr. Marquez' employment with the Department. The Department will only inform such prospective employers of 1) Mr. Marquez' last position held with the Department and 2) his out-of-service date, unless the Department is provided with a signed waiver and/or release from Mr. Marquez authorizing the release of additional employment information.

6. Moreover, Mr. Marquez agrees to waive all rights in IAB Case Number IV2349523 pursuant to Skelly v. State Personnel Board (1975) 15 Cal.3d 194 Cal.Rptr. 14.

7. Mr. Marquez agrees to waive any and all further administrative or judicial remedies with respect to this matter and the resignation set forth herein, including but not limited to the Los Angeles County Civil Service Commission or the Los Angeles County Employee Relations Commission and any court of law.

8. The parties further agree that this settlement shall not be considered, cited or used in any future dispute between the Department and any other Department employee as establishing precedent or past employment practice. This Agreement resolves the dispute between Mr. Marquez and the Department, and is not to be applied to any other facts or disputes.

9. In consideration of the terms and conditions set forth herein, Mr. Marquez agrees to fully release, acquit and forever discharge the County, their heirs, successors, assigns, and legal representatives from any and all liability whatsoever for any and all claims arising out of or connected with the employment relationship between the County and Mr. Marquez concerning the resignation and subject matter referred to herein. Additionally, Mr. Marquez specifically acknowledges that he has not been the subject of discrimination, harassment and/or retaliation in any form, including but not limited to discrimination based upon age, race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status or sex, and that he has no claim against the Department for any such discrimination, harassment and/or retaliation, whether any such claim is presently known or not known to him.

10. Mr. Marquez further agrees, with regard to this matter, to relinquish and expressly waives all rights conferred upon him by the provisions of California Civil Code Section 1542, which reads as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his/her favor at the time of executing the release, which if known by him/her must have materially affected his/her settlement with the debtor."

11. The parties agree that this Agreement may be specifically enforced in court and may be used as evidence in a subsequent proceeding in which any of the parties allege a breach of this Agreement.

12. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy of facsimile transmission of the agreement, including signatures, shall be deemed to constitute evidence of the Agreement having been executed.

13. The date of the last signature placed hereon shall hereinafter be known as the "date of execution" and the effective date" of this Agreement.

14. The parties agree that this is the complete Settlement Agreement and that no other promises have been made by either party. The parties further agree that no changes may be made to this Settlement Agreement unless both parties reduce the changes to writing and sign them.

15. Each party hereto represents and agrees that he/she or it has carefully read and fully understands all of the provisions of the Agreement, and that he/she or it is voluntarily, without any duress or undue influence on the part of or on behalf of any party, entering into this Agreement.

I have read the forgoing Settlement Agreement and I accept and agree to the provisions contained therein and hereby execute it voluntarily and with full understanding of its consequences. I further acknowledge that I have been afforded the opportunity to consult with legal counsel prior to signing this agreement.

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11/19/15

Mr. Damian Marquez, [redacted] Date

As to form only:

11/19/15

Mitchell Kander, Attorney Date
Green & Shinee

For the Department:

11/23/15

STEPHEN B. JOHNSON, CHIEF Date
EAST PATROL DIVISION